

**AGENDA MEMO**

**CITY COUNCIL MEETING DATE: JUNE 20, 2007**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: SUP-19754 - APPLICANT: NASIR KOSA - OWNER: ADMOOR YALDA**

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***THIS ITEM WAS HELD IN ABEYANCE FROM THE JUNE 6, 2007 CITY COUNCIL MEETING AT THE REQUEST OF THE APPLICANT.***

**\*\* CONDITIONS \*\***

The Planning Commission (6-0 vote) and staff recommend DENIAL.

**Planning and Development**

1. Conformance to the conditions for Rezoning (Z-0066-76) and Special Use Permit (U-0022-98) if approved.
2. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.
3. Approval of this Special Use Permit does not constitute approval of a liquor license.
4. The sale of individual containers of any size of beer, wine coolers or screw cap wine is prohibited. All such products shall remain in their original configurations as shipped by the manufacturer. Further, no repackaging of containers into groups smaller than the original shipping container size shall be permitted.
5. This business shall operate in conformance to Chapter 6.50 of the City of Las Vegas Municipal Code.
6. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.
7. No more than 10 percent of the retail floor space shall be devoted to the display of merchandising of alcoholic beverages.

**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

This is an appeal of the denial by the Planning Commission of a request for a Special Use Permit to add an Accessory Package Liquor Off-sale use in conjunction with an existing retail business at 1510 East Sahara Avenue that maintains an off-sale beer/wine/cooler sale use.

This request constitutes the third request for an increase in use. Because the applicant has not demonstrated that the proposed package liquor sales use will not be a detriment to the nearby residential areas staff has recommended denial.

**BACKGROUND INFORMATION**

<i><b>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</b></i>	
10/20/76	The City Commission approved a request for a Rezoning (Z-0066-76) from P-R (Professional Office and Parking) to C-1 (Limited Commercial).
3/12/92	The Planning Commission approved the three Land Use Sector Maps of the General Plan.
4/27/98	The City Council approved a request for a Special Use Permit (U-0022-98) for the off-premise sale of beer and wine in conjunction with a proposed 2,600 square-foot convenience store.
1/25/99	The City Council denied a request for a Special Use Permit (U-0141-98) for packaged liquor sales in conjunction with an existing 2,600 square-foot convenience store.
9/06/99	The City Council approved General Plan Amendment (GPA-10-00) to amend portions of the Southeast Sector Plan to indicate areas of potential transition, correct errors from GIS data conversion, and match actions since 1996.
9/06/00	The City Council approved the Las Vegas 2020 Master Plan. This site is within the Southeast Sector Area as described in the Plan.
9/18/02	The City Council denied a request for a Special Use Permit (U-0072-02) for the sale of packaged liquor for off-premises consumption on the subject property. The Planning Commission and staff recommended denial.
4/12/04	Code Enforcement Case #12506: Property owner cited for illegal signs, weeds, trash/debris, refuse, graffiti, vagrants. Case resolved 4/26/04.
9/16/04	Code Enforcement Case # 21731: Property owner cited for dilapidated chain link fence. Case resolved 9/24/04.
9/08/05	Code Enforcement Case # 35357: Property owner cited for graffiti on side of building. Case resolved 9/27/05.

3/01/06	The City Council approved General Plan Amendment (GPA-10477) to Amend a portion of the Southeast Sector Plan of the General Plan from O (Office) to SC (Service Commercial) at 1510 East Sahara Avenue. The City Council also approved an additional request for a Special Use Permit (SUP-9615) for a proposed Financial Institution, Specified, and for Waivers from the 200-foot distance separation requirement from a residential use and from the 1,000-foot separation requirement from another Financial Institution, Specified at 1510 East Sahara. The Planning Commission recommended approval; staff recommended denial.
04/12/07	The Planning Commission voted 6-0 to recommend DENIAL (PC Agenda Item #81/mh).
<b><i>Related Building Permits/Business Licenses</i></b>	
5/15/98	Plan Check #L-2008-98 issued for tenant improvement for 2,600 SF retail store. Project completed 6/08/98.
10/9/98	Certificate of Occupancy issued for 2,600 SF retail space at 1510 East Sahara Avenue.

<b><i>Pre-Application Meeting</i></b>	
2/5/07	A pre-application meeting was held with staff to discuss the requirements for an additional Special Use Permit for package liquor sales to an existing retail establishment that already has entitlements for a Beer/Wine/Cooler off-sale use. Staff
<b><i>Neighborhood Meeting</i></b>	
A neighborhood meeting was not required, nor was one held.	

<b><i>Details of Application Request</i></b>	
<b><i>Site Area</i></b>	
Net Acres	0.20 acres

<b>Surrounding Property</b>	<b>Existing Land Use</b>	<b>Planned Land Use</b>	<b>Existing Zoning</b>
Subject Property	Convenience Store	SC (Service Commercial)	C-1 (Limited Commercial)
North	Office	O (Office)	P-R (Professional)
South	Clark County (Multi-Family)	Clark County	Clark County
East	Office	O (Office)	C-1 (Limited Commercial)
West	Office	O (Office)	C-1 (Limited Commercial)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
<b>Special Area Plan</b>		X	NA
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
<b>Special Purpose and Overlay Districts</b>			
A-O Airport Overlay District	X		Y
<b>Trails</b>		X	NA
<b>Rural Preservation Overlay District</b>		X	NA
<b>Development Impact Notification Assessment</b>	X		Y
<b>Project of Regional Significance</b>		X	NA

## ANALYSIS

- Zoning/Use**

Per Title 19.04, a Retail Establishment with Accessory Package Liquor Off-Sale use is allowed only with an approved Special Use Permit in the C-1 (Limited Commercial) zoning District. Staff finds the proposed use inappropriate for this location. A residential neighborhood, known as the Francisco Park subdivision, is located within one hundred feet north of the subject site. Other uses surrounding the site include an office directly to the north, a retail shop to the west and an apartment complex located in Clark County to the south. Staff finds that the addition of a package liquor off-sale use is too intense in use from the established beer/wine/cooler sales use approved by Special Use Permit U-0022-98.

- Minimum Conditions for:**

### **RETAIL ESTABLISHMENT WITH ACCESSORY PACKAGE LIQUOR OFFSALE [C-1, C-2, C-M, M]**

Pursuant to its general authority to regulate the sale of alcoholic beverages, the City Council declares that the public health, safety and general welfare of the City are best promoted and protected by requiring that:

- \*1. Except as otherwise provided in this Chapter, no retain establishment accessory package liquor off-sale (hereinafter “establishment”) shall be located within four hundred feet of any church, synagogue, school, child care facility licensed for more than twelve children, or City park.

- \*2. Except as otherwise provided in Paragraph 3 below, the distances referred to in Paragraph 1 shall be determined with reference to the shortest distance between two property lines, one being the property line of the proposed establishment which is closest to the existing use to which the measurement pertains, and the other being the property line of that existing use which is closest to the proposed establishment. The distance shall be measured in a straight line without regard to intervening obstacles. For purposes of measurement, the term “property line” refers to property lines of fee interest parcels and does not include the property line of:
  - a. Any leasehold parcel; or
  - b. Any parcel which lacks access to a public street or has no area for on-site parking and which has been created so as to avoid the distance limitation described in Paragraph 1.
- \*3. In the case of an establishment property to be located on a parcel of at least eighty acres in size, the minimum distances referred to in Paragraph 1 shall be measured in a straight line:
  - a. From the nearest property line of the existing use to the nearest portion of the structure in which the establishment will be located, without regard to intervening obstacles; or
  - b. In the case of a proposed establishment which will be located within a shopping center or other multiple-tenant structure, from the nearest property line of the existing use to the nearest property lines of a leasehold or occupancy parcel in which the establishment will be located, without regard to intervening obstacles.
- 4. When considering a Special Use Permit application for an establishment which also requires a waiver of the distance limitation in Paragraph 1, the Planning Commission shall take into consideration the distance policy and shall, as part of its recommendation to the City Council, state whether the distance requirement should be waived and the reasons in support of the decision.
- 5. The minimum distance requirements in Paragraph 1 do not apply to:
  - a. An establishment which has a nonrestricted gaming license in connection with a hotel having two hundred or more guest rooms on or before July 1, 1992 or in connection with a resort hotel having in excess of two hundred guest rooms after July 1, 1992; or

- b. A proposed establishment having more than fifty thousand square feet of retail floor space.
- \*6. All businesses which sell alcoholic beverages shall conform to the provisions of Chapter 6.50 of the Las Vegas Municipal Code.
- 7. The minimum distance requirements set forth in Paragraph 1, which are otherwise nonwaivable under the provisions of this subdivision, may be waived:
  - a. In accordance with the provisions of Section 19.040.050(A)(4) for any establishment which is proposed to be located on a parcel within the Downtown Casino Overlay District;
  - b. In accordance with the applicable provisions of the “Town Center Development Standards Manual” for any establishment which is proposed to be located within the T-C (Town Center) Zoning District and which is designated MS-TC (Main Street Mixed Use) in the Town Center Land Use Plan; or
  - c. In connection with a retail establishment having less than twenty thousand square feet of retail floor space, if the area to be used for the sale, display or merchandising of alcoholic beverages and each use to be protected are separated by a highway or right-of-way with a width of least one hundred feet.

Conditions denoted with an asterisk cannot be waived.

This request constitutes the third request for such increase in use and the applicant has not demonstrated that the proposed package liquor sales use will still not be a detriment to the nearby residential areas. Therefore staff is recommending denial.

## **FINDINGS**

The following findings must be made for a Special Use Permit:

1. **“The proposed land use can be conducted in a manner that is harmonious and compatible with existing surrounding land uses, and with future surrounding land uses as projected by the General Plan.”**

Staff does not find the proposed additional package liquor use appropriate for this location nor is it harmonious and compatible with the existing surrounding land uses. A residential neighborhood is within one hundred feet north of the subject site. Staff finds the sale of package liquor is a more intense type of alcohol sales than the already approved Special Use Permit (U-0022-98) for beer and wine sales. Also, the applicant has not demonstrated that the proposed package liquor sales use will not be a detriment to the nearby residential areas. Therefore, staff is recommending denial.

**2. “The subject site is physically suitable for the type and intensity of land use proposed.”**

This business, classified as a convenience store, has already been approved for the sale of beer and wine (off-premise consumption) that utilizes at least 10% of the floor display area. Staff finds that the proposed package liquor use is not suitable for this site due to the close proximity to a residential neighborhood and therefore recommends denial of the request.

**3. “Street or highway facilities providing access to the property are or will be adequate in size to meet the requirements of the proposed use.”**

The site is served by Sahara Avenue, defined as a 150-foot-wide Primary Arterial by the Master Plan of Streets and Highways. Staff finds the street facilities adequate to meet the requirements of the proposed use.

**4. “Approval of the Special Use Permit at the site in question will not be inconsistent with or compromise the public health, safety, and welfare or the overall objectives of the General Plan.”**

The sale of package liquor is a considerable increase in use than what has been currently allowed. Staff finds that this proposed increase in use would compromise public safety or the perception of a safe environment by the general public; therefore, denial of this request is recommended.

**5. The use meets all of the applicable conditions per Title 19.04.**

The requested Special Use Permit for a Retail Establishment with Accessory Package Liquor Off-Sale meets all conditions as listed in Title 19.04

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 10

**ASSEMBLY DISTRICT** 9

**SENATE DISTRICT** 10

**NOTICES MAILED** 190 by City Clerk

**APPROVALS** 0

**PROTESTS** 0